

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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JAMES ROBINSON,

Plaintiff,

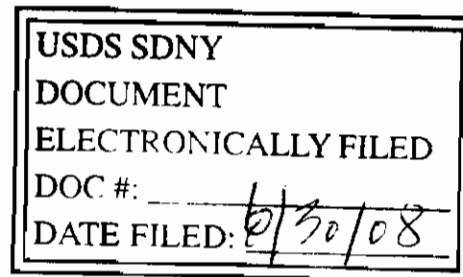
-against-

**NEW YORK CITY DEPARTMENT OF
CORRECTIONS, COMMISSIONER
MARTIN F. HORN, WARDEN
MICHAEL HOURIHANE, WARDEN
SANDRA LANDSTON, and ERIC M.
TAYLOR,**

Defendants.
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07 Civ. 5888 (HB)

ORDER



Hon. Harold Baer, Jr., District Judge:

WHEREAS the Defendants' motion to dismiss the Plaintiff's complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) was properly served on the Plaintiff on November 26, 2007 while the Plaintiff was in the custody of Defendant New York City Department of Corrections; and

WHEREAS counsel for the Defendants made diligent efforts to locate the Plaintiff after his release from the New York City Department of Corrections' custody on December 11, 2007, but was unable to do so; and

WHEREAS the Plaintiff did not update his address with the Court until he sent an undated letter to the Court which the Court received on May 14, 2008;

WHEREAS by December 26, 2007, the Plaintiff had not filed opposition papers to the Defendants' motion to dismiss and had not requested additional time to do so; and

WHEREAS on December 26, 2007, this Court ordered that the Plaintiff respond to the Defendants' motion to dismiss by January 21, 2008, scheduled a conference for January 24, 2008, and stated that if the Plaintiff did not appear at the conference the Court would likely dismiss the Plaintiff's complaint; and

WHEREAS the Plaintiff did not appear at the conference on January 24, 2008 and by this date still had not communicated with the Defendants' counsel, the Defendants or the Court; and

WHEREAS on January 24, 2008, this Court requested the Defendants to file a second motion to dismiss the Plaintiff's complaint for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b); and

WHEREAS the Defendants served and filed a motion to dismiss for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) on or about January 29, 2008; and

WHEREAS by February 28, 2008, the Plaintiff still had not communicated with the Court or notified the Court of his new address; and

WHEREAS this Court granted the Defendants' motion to dismiss for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) in an Order dated February 28, 2008;

WHEREAS the Plaintiff in an undated letter which the Court received on May 14, 2008, requested this Court to reopen the Plaintiff's case because he had not received notice of the conference or the Defendants' second motion to dismiss, having changed his address; and

WHEREAS the Plaintiff had made no efforts to respond to the Defendants' first motion to dismiss his complaint or to otherwise prosecute his case or notify the Defendants, Defendants' counsel or this Court of his new address for approximately five months, since his release from the Department of Corrections' custody on December 11, 2007; it is hereby

ORDERED that the Plaintiff's request to reopen his case is denied.

SO ORDERED.

June 30, 2008
New York, New York



U.S.D.J.